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Question of torture and other cruel, inhuman or degrading treatment or punishment

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report on the question of torture and other cruel, inhuman or degrading treatment or punishment, submitted by Sir Nigel Rodley, Special Rapporteur of the Commission on Human Rights, in accordance with paragraph 29 of General Assembly resolution 54/156.

* A/55/150.

** In accordance with General Assembly resolution 54/248, sect. C, para. 1, this report is being submitted on 11 August 2000 so as to include as much updated information as possible.

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Interim report of the Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment

I. Introduction

1. The present report is the second report submitted to the General Assembly by the Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment, Sir Nigel Rodley, pursuant to General Assembly resolution 54/156 and Commission on Human Rights resolution 2000/43. This report contains issues of special concern to the Special Rapporteur, in particular overall trends and recent developments in the United Nations human rights mechanisms of relevance to his mandate.

2. In accordance with General Assembly resolution 54/156, this report addresses questions of torture and other cruel, inhuman or degrading treatment or punishment directed against women, and conditions conducive to such torture, and questions relating to the torture of children. The Special Rapporteur would like to draw the attention of the Assembly to his reports to the Commission contained in documents E/CN.4/1995/34 and E/CN.4/1996/35 in which these issues have respectively been previously addressed.

3. In view of the adoption by the Commission on Human Rights at its fifty-sixth session of resolution 2000/61 on human rights defenders, in which the Commission requested the Secretary-General to appoint a special representative to report on the situation of human rights defenders, the Special Rapporteur would like to address the issue of torture and human rights defenders. The theme of this year's commemoration of the United Nations International Day in Support of Victims of Torture (26 June) was the question of reparation to torture victims. The Special Rapporteur considers it appropriate to address this issue, as well as the related question of impunity for perpetrators of torture, in the present report. In view of the theme chosen for the special dialogue of the last session of the Commission on Human Rights, a chapter will be devoted to the question of poverty and the enjoyment of human rights.

4. Finally, the Special Rapporteur strongly supports the call from the Secretary-General earlier this year for States to ratify 25 core treaties, including seven human rights instruments among which is the Convention against Torture.

II. Issues of special concern to the Special Rapporteur

A. Gender-specific forms of torture

5. The Special Rapporteur has continued to receive information according to which women are subjected to gender-specific forms of torture, including rape, sexual abuse and harassment, virginity testing, forced abortion or forced miscarriage. A large number of individual cases have been transmitted, mostly in conjunction with the Special Rapporteur of the Commission on Human Rights on violence against women, its causes and consequences, to several Governments during previous years. No specific issue regarding gender-specific forms of torture, except information on so-called virginity tests (see below), have been drawn to the attention of the Special Rapporteur since his 1994 study (E/CN.4/1995/34) in which he examined questions concerning torture directed disproportionately or primarily against women and conditions conducive to such torture. As recommended by the workshop on gender integration into the human rights system, organized by the Office of the United Nations High Commissioner for Human Rights, the Division for the Advancement of Women of the United Nations Secretariat and the United Nations Development Fund for Women and held at Geneva from 26 to 28 May 1999, the Special Rapporteur would welcome receiving information on patterns of violations falling within his mandate analysed from a gender perspective.

6. The Special Rapporteur welcomes the adoption on 6 October 1999 by the General Assembly, in its resolution 54/4 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. The Optional Protocol, which was subsequently opened for signature and ratification on 10 December, had been signed by 24 States at the time of writing. It will enter into force three months after the tenth ratification or accession.

7. The Optional Protocol provides, inter alia, that either individuals or groups of individuals may submit individual complaints to the Committee on the Elimination of Discrimination against Women. Its criteria for receiving complaints and its functions are modelled on comparable existing procedures or practices of other international human rights instruments such as the Human Rights Committee and the Committee against Torture. The Committee on the Elimination of Discrimination against Women will consider complaints admissible if all available domestic remedies have been exhausted and if the complaint has not already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement. The Special Rapporteur also notes the possibility for the Committee to take interim measures. After receipt of a communication and prior to its final decision on the merits of the case, the Committee will have the option of sending urgent communications requesting States parties to take the necessary steps to protect the alleged victim or victims from irreparable harm. Similarly, the Special Rapporteur notes with appreciation the inclusion of article 11 which requires a State party to ensure that all individuals under its jurisdiction are not subjected to ill-treatment or intimidation as a consequence of communicating with the Committee. He notes that a similar provision is contained in the Convention against Torture (see article 13).

8. The Special Rapporteur would like to recall that the Committee on the Elimination of Discrimination against Women, in its general recommendation No. 19, entitled "Violence against women" (see A/47/38), enumerated the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment among those rights impaired or nullified by gender-based violence under international law and constituting discrimination within the meaning of the Convention. It stated that the definition in article 1 of the Convention[1] should be interpreted as encompassing gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. While mechanisms established under other international human rights instruments are available to men and women alike, the Special Rapporteur welcomes the forthcoming opportunity given to women and advocates of women's rights to use the specific mechanism provided by the Optional Protocol.

9. Finally, the Special Rapporteur notes the adoption on 29 March 2000 by the Human Rights Committee of general comment No. 28 on equality of rights between men and women (article 3 of the International Covenant on Civil and Political Rights) (see A/55/40). In the general comment (para. 11), the Committee requests that, in order to be in a position to assess compliance with article 7 of the Covenant (prohibition of torture), as well as with article 24 (special protection for children), States parties provide it with

> "information on national laws and practice with regard to domestic and other types of violence against women, including rape. It also needs to know whether the State party gives access to safe abortion to women who have become pregnant as a result of rape. The States parties should also provide the Committee with information on measures to prevent forced abortion or forced sterilization. In States parties where the practice of genital mutilation exists information on its extent and on measures to eliminate it should be provided. The information provided by States parties on all these issues should include measures of protection, including legal remedies, for women whose rights under article 7 have been violated."

Similarly, the Special Rapporteur would welcome information on these issues from governmental and non-governmental sources.

B. Torture and children

10. The Special Rapporteur has continued to receive information regarding a significant number of instances where the victims of torture or cruel, inhuman or degrading treatment or punishment are children. The conditions of detention for children in pre-trial centres and prisons continue to be of concern to the Special Rapporteur. Severe overcrowding, unsanitary conditions and inadequate and/or insufficient food and clothing are often exacerbated by a shortage or absence of adequately trained professionals. The resulting lack of appropriate attention to the medical, emotional, educational, rehabilitative and recreational needs of detained children can result in conditions that amount to cruel or inhuman treatment. The Special Rapporteur

has also continued to receive information according to which children were allegedly at risk of deliberate acts of torture, including forms of sexual abuse.

11. The Special Rapporteur has received information according to which children have been subjected to cruel, inhuman or degrading treatment in non-penal institutions. Unlike most adults, children can be deprived of their liberty in a variety of legal settings other than those related to the criminal justice system and are thus reported to be particularly vulnerable to some forms of torture or ill-treatment in an institutional environment. Foster care systems and residential institutions caring for children who become wards of the State after being orphaned or removed from parental care for their own protection are in some cases alleged to permit inhuman forms of discipline or extreme forms of neglect. Particularly in the case of extremely young children, such abuses can amount to cruel and inhuman treatment. State workers in care institutions are sometimes poorly trained and supervised and are in many cases able, not necessarily with official approval but owing to insufficient monitoring, to subject children to physical, emotional or sexual abuse which would rarely be tolerated in juvenile justice institutions. Similar problems appear also to be experienced in some institutions caring for mentally ill children or children with other disabilities. Cases are also reported in which existing legislation allows children to be imprisoned on the grounds of mental illnesses and allegedly kept in chains while in prison.

12. Unlike detention within the justice system, which in most cases will take place for a predetermined period of time, children are sometimes held in such institutions and subjected to cruel and inhuman or degrading treatment without time limits or periodic reviews or judicial oversight of the placement decision. Such indeterminate confinement, particularly in institutions that severely restrict their freedom of movement, can in itself constitute cruel or inhuman treatment. Children in care leave such institutions on reaching the age of legal majority. Reports from some countries seem to indicate that these children are often unprepared for independent life as a result of the degrading treatment they have received and are thus particularly likely to come into contact with the criminal justice system at a later stage, perpetuating a cycle that can expose individuals to repeated victimization. Children with disabilities who suffer from cruel and inhuman treatment in institutions can be subjected to such treatment throughout their lives because they continue to be institutionalized as a result of their disabilities. Some of these children may be particularly vulnerable to continuing forms of degrading treatment as they are unable to articulate their experiences and complaints as a result of their disability or isolation.

13. The Special Rapporteur notes the reported lack of appropriate monitoring and complaints mechanisms for institutions dealing with children. It is alleged that in some cases, this may be exacerbated by the denial of counsel, even to older children, because of their status as minors; it is further alleged that some children are represented only by their parents or legal guardians who may not always act in the best interests of the child. The lack of appropriate surveillance of institutions to deter and to provide remedies for instances of maltreatment is reported to be a common problem in all types of institutions where children are held.

14. Children being cared for in institutions can also be particularly vulnerable to torture and ill-treatment, not only because of their young age, but also because of the over-representation of children from particularly vulnerable groups among those institutionalized. Former street children, refugee and internally displaced children, unaccompanied child asylum-seekers, children considered as illegal migrants, children from minority groups and children who have previously suffered abuse from public officials or within the family are more likely to be cared for in institutions. As members of marginalized groups, they are less likely to be able to make formal complaints of cruel and inhuman or degrading treatment. Discriminatory attitudes towards some vulnerable groups can mean that they are perceived as being less credible in their allegations or not fully entitled to an equal standard of protection.

15. The Special Rapporteur is particularly concerned at the information received indicating that children have been subjected to extreme forms of torture as a result of armed conflict situations. Furthermore, the Special Rapporteur notes that the failure of some States to protect them has been of serious concern to the Committee on the Rights of the Child. Violations reported during armed conflict include severe forms of torture and other forms of ill-treatment inflicted on child civilians and children recruited into armed forces,

allegedly by State as well as by non-governmental forces. The Special Rapporteur recalls that all parties to armed conflicts, be they of an international character or not, are bound by humanitarian law principles which prohibit torture and other forms of cruel treatment, including mutilation. In one country, the latter reportedly included such brutal forms of torture as the amputation of limbs. Amnesties negotiated in the aftermath of armed conflict are argued to have granted impunity to State, paramilitary or non-governmental forces that in some cases have committed extreme forms of torture on children. In addition, the Special Rapporteur notes that the forcible recruitment of children into armed forces is of great concern to the Committee on the Rights of the Child. Children are said to have been forcibly recruited at a sometimes very young age, in violation of international human rights standards, and forced to carry out traumatic attacks on their own families and communities. In this respect, the Special Rapporteur encourages States to ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, adopted by the General Assembly in its resolution 54/263 of 25 May 2000, and to support the work of the Special Representative of the Secretary-General on Children and Armed Conflict.

C. Torture and human rights defenders

16. Over the years, the Special Rapporteur has received information regarding a significant number of cases where the victims of torture and cruel, inhuman or degrading treatment or punishment are human rights defenders. While there is no evidence to suggest that human rights defenders are generally subjected to particular forms of torture or ill-treatment applied uniquely to them owing to their status as human rights defenders, there remains nonetheless a clear and compelling need to make a separate comment on the issue. This need derives from the consideration that human rights defenders are on the front line for the defence of human rights and play a key role in the denunciation of human rights violations. The Special Rapporteur would like to stress that, like other United Nations human rights mechanisms, he relies largely on their work and information to discharge his mandate.

17. Aside from the traditional forms of repression of human rights, such as extrajudicial, summary or arbitrary executions, arbitrary detention and torture, a large number of communications received by the Special Rapporteur concern systematic harassment of human rights defenders, their relatives or persons associated with them, aimed at preventing them from undertaking human rights activities. Threats to their physical integrity, including death threats, legal restrictions related to the existence of the organizations to which they belong or on their activities, social disqualification through propaganda, misinformation and intimidation, judicial persecution through fabricated criminal charges, denial of access to means of livelihood and of social services, constant surveillance, denial of identity documents or absence of due protection by public authorities from threats originating from non-State actors are among the most commonly reported ways of preventing human rights defenders from carrying out their activities.

18. While the Special Rapporteur intervened on several occasions on behalf of human rights defenders who were said to be at risk of torture or other forms of ill-treatment or who had allegedly been subjected to torture, he also intervened on behalf of human rights defenders who were not directly at any risk of torture, but who were prevented by various means not falling within his mandate from providing legal and/or humanitarian assistance to torture victims. In the former case, he mainly intervened in conjunction with the Special Rapporteur of the Commission on Human Rights on the independence of judges and lawyers.

19. The Convention against Torture refers to the duty of States parties to ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain ... and that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given (article 13). The Special Rapporteur believes that this right would be seriously impaired if human rights defenders are prevented from advocating on behalf of torture victims. In that context, the Special Rapporteur sent urgent appeals on behalf of lawyers representing torture victims who were said to have been threatened or harassed in connection with pending legal proceedings regarding alleged cases of torture.

20. The Special Rapporteur would also like to remind Governments that in its resolution 2000/22 on cooperation with representatives of United Nations human rights bodies, the Commission urged them to refrain from all acts of intimidation or reprisal against

(a) those who seek to cooperate or have cooperated with representatives of United Nations human rights bodies, or who have provided testimony or information to them; (b) those who avail or have availed themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms and all those who have provided legal assistance to them for this purpose (para. 1). In that resolution the Commission also requested all representatives of United Nations human rights bodies to continue to take urgent steps, in conformity with their mandates, to help prevent the hampering of access to United Nations human rights procedures in any way and the occurrence of such intimidation and reprisals (paras. 2 and 3). In the framework of the resolution, an urgent appeal was sent on behalf of human rights defenders who were believed to be seriously harassed in retaliation for their cooperation with the Special Rapporteur during a fact-finding mission.

21. The Special Rapporteur would also like to draw the attention of the General Assembly to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, which it adopted by its resolution 53/144 of 8 March 1999. The Declaration states that everyone has the right to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms (article 9, para. 3 (c)). It also stipulates that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliations, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration (article 12, para. 2).

22. Furthermore, the Special Rapporteur would like to draw the attention of the General Assembly to the Principles on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment, also known as the Istanbul Protocol. The Principles were annexed to his previous report to the General Assembly (A/54/426); the attention of Governments was also drawn to the Principles by the Commission and were annexed to resolution 2000/43 adopted at its last session. The Principles state that alleged victims of torture or ill-treatment, witnesses, those conducting the investigation and their families shall be protected from violence, threats of violence or any form of intimidation that may arise pursuant to the investigation (para. 3 (b)).

23. Finally, the Special Rapporteur welcomes the creation of a special mechanism to deal exclusively with the question of human rights defenders. As rightly stated during the 1999 meeting of special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures of the Commission on Human Rights and of the advisory services programme, while all existing mechanisms are committed to cooperating among themselves on this issue, it is understood that the nature of the problem was not one that could be covered satisfactorily by them alone in the discharge of their specific mandates (see E/CN.4/2000/5, para. 87 (p)). The Special Rapporteur is confident that in a spirit of cooperation and in order to avoid duplication of work, ways will be found, in particular within the Secretariat, to coordinate actions with the Special Representative of the Secretary-General on human rights defenders.

D. Reparation for victims of torture

24. Some international and regional human rights instruments impose a duty on States to provide access to justice as well as adequate and fair reparation for victims of human rights violations. With respect to violations falling within the Special Rapporteur's mandate, he is guided by article 14 of the Convention against Torture which provides that each State party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.[2]

25. The annex to the final report (E/CN.4/2000/62) of the independent expert of the Commission on Human Rights on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms, Cherif Bassiouni, contains the text of the basic principles and guidelines on the right to a remedy and reparation for victims of violations of international law and humanitarian law, which are said to reflect either existing international law or emerging norms on that matter.

26. According to the basic principles and guidelines, the victim's right to a remedy encompasses (a) access to justice; (b) reparation for the harm suffered; and (c) access to factual information concerning the violations (para. 11). Regarding the right to reparation, it is stated that adequate, effective and prompt reparation proportional to the gravity of the violation and the harm suffered (para. 15) should include the following forms: restitution, compensation, rehabilitation, and satisfaction and guarantees of non-repetition (para. 21). The content of these forms of reparation is developed in paragraphs 22 to 25. With respect to his mandate, the Special Rapporteur notes in particular the recommendation that compensation should be provided for any economically assessable damage resulting from violations of international human rights and humanitarian law, such as (a) physical or mental harm, including pain, suffering and emotional distress ...; and (e) costs required for legal or expert assistance, medicines and medical services, and psychological and social services (para. 23). Furthermore, rehabilitation should include medical and psychological care as well as legal and social services (para. 24).

27. The Special Rapporteur shares the views of the independent expert that the State should ensure that its domestic laws, as much as possible, provide that a victim who has suffered violence or trauma should benefit from special consideration and care to avoid his or her re-traumatization in the course of legal and administrative procedures designed to provide justice and reparation (para. 10). The Special Rapporteur notes that this recommendation is particularly relevant for the kinds of violations that fall within his mandate. For example, the Special Rapporteur has received information regarding the so-called "virginity test" which has been complained of as being traumatic. The Special Rapporteur received information according to which women, even minors, were subjected to these tests after having complained of rape. It was alleged that not only the way the tests were carried out, but also the very fact that they were subjected to that kind of "testing" was a traumatic and humiliating experience which, moreover, is reported to entail stigmatization in the particular sociocultural context in which these women were living.

28. The Special Rapporteur would like to emphasize the inherent relationship between the right of torture victims to obtain reparation and the prevention or non-repetition of further violations. This link has been established, inter alia, in the revised final report of Louis Joinet on the question of the impunity of perpetrators of human rights violations (civil and political) (E/CN.4/Sub.2/1997/20/Rev.1) and the study of Theo van Boven concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms (E/CN.4/Sub.2/1993/8). The Special Rapporteur believes that reparation, beyond the purpose of relieving the suffering of and affording justice to victims by removing or redressing to the extent possible the consequences of the wrongful acts, has an inherent preventive and deterrent aspect.

29. In his joint statement for the United Nations International Day in Support of Victims of Torture with the Committee against Torture, the Board of Trustees of the Voluntary Fund for Victims of Torture and the United Nations High Commissioner for Human Rights, the Special Rapporteur urged all States to provide for fair and adequate reparation, including compensation and rehabilitation of the victims of torture, in their domestic law. On that occasion, the increasing need for legal assistance to obtain reparation, compensation and rehabilitation services for torture victims was also stressed.

30. It must be noted that in order to be in possession of all relevant information, the Special Rapporteur requests in his standard letter of transmittal of allegations to Governments information on the nature and amount of any compensation made to the victim or his/her relatives. It must nevertheless be stressed that details regarding reparation has rarely been received by the Special Rapporteur.

31. The prevalence of impunity is incompatible with full reparation to the victims of torture. Furthermore, the Special Rapporteur would like to reiterate his conviction, stated on several occasions, that the continuation of the practice of torture is caused, in part, by impunity, that is the implementation of de jure and de facto obstacles to the prosecution of perpetrators of torture (see E/CN.4/1999/61, annex). In particular, the Special Rapporteur has noted with concern the use of measures by States to limit legal liability such as the adoption of acts of indemnities or the granting of amnesties.

32. In addition, the Special Rapporteur would like to recall the obligation of States parties to the Convention

against Torture to apply universal jurisdiction in respect of alleged perpetrators of torture (articles 5 and 7) and to make torture a crime under domestic law (article 4). He further recalls the latest resolution adopted by the Commission on Human Rights on the question of torture (resolution 2000/43), in which the Commission stressed the general responsibility of all States to investigate allegations of torture and to ensure that those who encourage, order, tolerate or perpetuate such acts are held responsible. Case law under the International Covenant on Civil and Political Rights, the European Convention on Human Rights and the American Convention on Human Rights indicates that a failure to prosecute, or at least a failure to investigate in a manner which potentially leads to prosecution, is incompatible with the responsibilities of States under these conventions. He similarly recalls the adoption on 17 July 1998 of the Rome Statute of the International Criminal Court, the preamble of which expressly states that the establishment of the Court is fuelled by the determination to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes. It stresses that the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation. It further provides that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes. In the light of the above, it is the view of the Special Rapporteur that States may now exercise universal jurisdiction over the alleged perpetrators of torture.

33. In that context, the Special Rapporteur welcomes the decision of the House of Lords, the highest court in the United Kingdom, which concluded in March 1999 that Augusto Pinochet Ugarte, former head of State of Chile, was not immune from being extradited to Spain to stand trial on charges of human rights abuses, including torture. The House of Lords determined by reference to the Convention against Torture that immunity was inconsistent with the wording of the Convention. Similarly, the Special Rapporteur is pleased to note the decision by the Chilean Supreme Court to strip General Pinochet of his immunity, clearing the way for his future trial in connection with a notorious military death squad believed to be responsible for the deaths of 72 political prisoners. The Special Rapporteur recently expressed his concern, with the Special Rapporteur on the independence of judges and lawyers, to the Government of Senegal over the circumstances surrounding the recent dismissal of charges of being an accomplice to torture against the former President of Chad, Hissène Habré.

E. Torture and poverty

34. As he stated during his oral presentation to the Commission on Human Rights at its fifty-sixth session, the Special Rapporteur believes that the question of poverty is all too relevant to issues falling within his mandate.

35. It is true that many of the more high-profile cases of torture that come to international attention concern people involved in political activities of various sorts. Such victims of torture may well be of a class or connected with organizations that have international contacts. The experience of missions in several parts of the world has led the Special Rapporteur to observe, however, that the overwhelming majority of those subjected to torture and ill-treatment are ordinary common criminals from the lowest strata of society. They are the ones who cannot afford good lawyers, or who may have access only to less-than-diligent lawyers provided, in some instances, by the State, or who may not have access to any lawyer at all; whose families do not have the connections to be taken seriously by the police, prosecutors or judges, or even the means of securing life-saving health care that may be obtained outside the place of detention, or of providing food fit to eat when the detaining authorities and institutions fail to make these available; and who do not have any idea of what their rights are, even the right not to be tortured, or how those rights may be secured. Indeed, they are often members of the lowest level of an underclass that is disconnected from all opportunity of leading decent lives as productive economic citizens. It must be noted that increasingly, information from non-governmental sources is received in respect of torture or ill-treatment of persons believed to be involved in ordinary criminal activity. To what extent this trend may be a reflection of a greater awareness of a more long-standing problem is speculative.

36. The Special Rapporteur noted during one of his missions that the prison personnel in that country were underpaid, undertrained, and housed in conditions calculated to erode any sympathy they might have for their charges. Similar observations can be made

regarding pay and conditions of work for law enforcement officials in other countries. In that context, it must be noted that a significant number of cases received by the Special Rapporteur concern beatings and other forms of ill-treatment, especially in police custody, allegedly aimed at extorting bribes, mainly from common criminal suspects. During fact-finding missions, the lack of financial resources was often presented by officials as an explanation, if not a justification, for failing to provide food or adequate and prompt medical care to detainees. Detainees in need of urgent medical attention have thus been left unattended reportedly due to a lack of medicines or of means of transportation to a proper medical institution. Finally, the Special Rapporteur notes with concern that law enforcement officials from lower ranks often acknowledged that because of a lack of means to carry out proper investigations into cases brought to them, violence was resorted to as the "easiest" and "simplest" way to achieve "results". This, coupled with a lack of proper training, is among the main root causes of torture, especially in relation to common criminal suspects.

37. The Special Rapporteur has neither the competence nor the expertise to offer solutions to change these bleak realities. He believes, however, that as long as national societies and, indeed, the international community fail to address the problems of the poor, the marginalized and the vulnerable, they are indirectly and, as far as exposure to the risk of torture is concerned, directly contributing to the vicious circle of brutalization that is a blot on and a threat to our aspirations for a life of dignity and respect for all.

Notes

[1] "For the purposes of the present Convention, the term 'discrimination against women' shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

[2] Similarly, article 11 of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution 3452 (XXX) of 9 December 1975, provides that "[w]here it is proved that an act of torture or other cruel, inhuman or degrading treatment or punishment has been committed by or at the instigation of a public official, the victim shall be afforded redress and compensation in accordance with national law".